Community Television Review

National Federation of Local Cable Programmers *Vol. 12, # 1 March 1989* *$3.00*

KLANSAS CITY KABLE

By Dirk Koning - CTR Editor

In light of the recent filing in Kansas City, by ACLU on behalf of the Ku Klux Klan et el. Many Access Centers are scrambling to review their programming policies and procedures.

Periodic review is advisable, however, attempts to "Klan Proof" your policy or procedure is dangerous. As objectionable as we find the Klan, their non-slanderous speech is as protected as Mother Theresa's.

Some think it is dangerous for Access to stand on speech principles, risking extinction. The Kansas City, City Council is arguing that no constitutional questions are involved in their decision to not exercise their Cable Act option to require public access in their franchise.

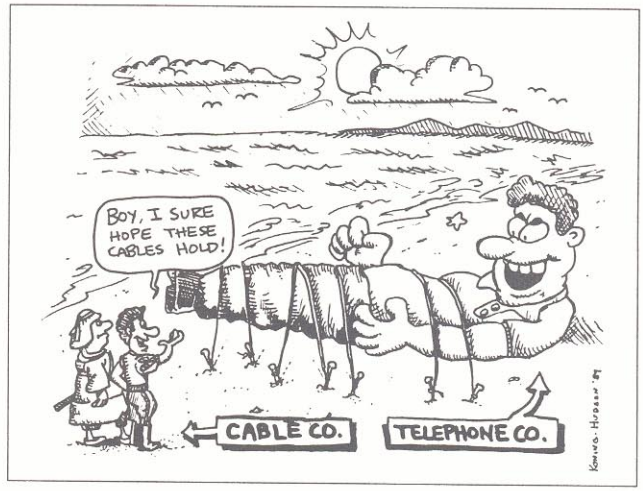
The next issue of CTR will be dedicated to controversial programming on cable access television. Even with its problems, Public Access Television is still a rare medium well done.

MARK YOUR CALENDAR
the NFLCP
National Convention
in Dallas, TX
July 13-15

TELCO'S IN CABLE?

by Andrew Blau-NFLCP Public Policy Committee Chair

The prospect of telephone companies entering the cable television business is one of the most significant communications policy issues now up for discussion. The possibility exists that "telco" entry could dramatically alter the communications industry. Telephone companies dwarf even the largest cable companies (as cable industry reps are eager to remind you) and the telcos, with their tremendous resources, installed networks, and legal and regulatory clout would be mighty competitors. The Federal Communications Commission is currently considering whether it's rules that keep telcos and cable separate have outlived their usefulness. The Commission's decision to start an inquiry is an early step down a path that could change the cable business. It could also have a profound, if as yet unpredictable, effect on access. On December 16, the NFLCP filed Comments with the Commission outlining our position.



In order to put those Comments in perspective and help NFLCP'ers understand what may be at stake, a little background is necessary. However, keep in mind that, whatever claims are being made about the future, the real long-term effects of either retaining the ban or lifting it are unknown. As people dedicated to access, we must keep informed and understand how to protect access in an environment that may well bring unforeseen change. Both the telephone and the cable industries are looking for friends in this struggle, and both groups have made friendly overtures to NFLCP and any other potential ally who will listen. Nevertheless, if we don't fight to protect access, no one will.

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From The Chair...

Sharon Ingraham Chairperson of the NFLCP

Dear Members and Friends,

In this edition of CTR, you will be reading about an issue that may change the face of telecommunications as we have experienced it. The decisions and discussions going on at the FCC, in Congress and the courts have the potential to reshape the control of information pipelines in a radical and not necessarily better way.

As NFLCP members, you have good reason to be concerned with these public policy matters. For both PEG access users and local origination programmers, significant changes in the ownership and regulation of cable and related industries could mean the loss of the channels, equipment and funding we have worked to achieve. We need continued Congressional support and we need local programming requirements to remain intact or, better yet be strengthened. Telephone company entry into the cable television industry is a matter that we must all become well-informed about. As you will read in this issue, NFLCP has already filed comments with the FCC and will continue to work actively in any necessary arena that affects our interests. Thank you to Public Policy Chair Andrew Blau for writing our comments.

- organizational news of interest:

By the time you read this column, your Hometown USA entry poster should have arrived. Sue Miller Buske of The Buske Group is this year's festival coordinator.

Plan on joining us in Dallas for the 1989 National Convention - "THE VIDEO FRONTIER." This year's convention manager is Quinta Martin, who has nationwide experience in conference coordination. Working with Quinta will be Local Planning Committee Chairperson Jan Sanders and National Board Member Debbie Luppold.

On the financial side, things continue to improve. The 1988 third quarter numbers showed NFLCP liabilities reduced by over 30% from the end of 1987. In fact, they were lower than at the end of 1986. At the same time, membership levels and renewal rates are increasing. All major projects are on track and, as I've said in previous CTR's, new services are on the way. As usual, I am grateful to Membership Manager Reginald Carter, who is doing outstanding work running the National Office. Thanks also to the National, Regional and Chapter Boards, who are working so hard to keep NFLCP moving and growing.

As a reminder, the NFLCP's national office is open Monday thru Friday from 12 to 5 pm EST, the phone# 202-829-7186.

'84 Cable Act's Effect on Access Polled by Committee

The NFLCP's Public Policy Committee is studying the effect of the *Cable Act* on the ability of communities to obtain and maintain adequate operating support for access.

Some access groups and cities have reported difficulty in obtaining any adequate level of guaranteed operating support in renewal franchises since passage of the Act. Others are reporting that communities, fearing adequate operating funds will not be available for the future, are cutting back in existing operations to create "trust funds" for the future.

If your city or organization has faced these or similar issues please let us know. Either via the:

NFLCP Bulletin Board
[217] 359-9118

or a letter to:

Andrew Blau,
Chair, NFLCP Public Policy Committee
c/o Office of Communication, UCC
105 Madison Ave.
New York, NY, 10016.

Please mark the envelope or E-mail **"Funding Study."**

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Send articles via electronic mail to the **NFLCP Electronic Bulletin Board (217) 359-9118**. Address all E-mail to: CTR MANAGERS. Or Contact Mt Hood Community College, Communications Division, 26000 SE Stark, Gresham, OR 97030. (503)667-7109 . Materials submitted for publication will not be returned.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

TELEPHONE COMPANY - CABLE TELEVISION Cross-Ownership Rules Sections 63.54 - 63.58

CC Docket No. 87-266

COMMENTS OF
THE NATIONAL FEDERATION OF LOCAL CABLE PROGRAMMERS

(NFLCP) hereby responds to the Commission's inquiry in the above captioned matter. NFLCP is a national membership organization dedicated to cultivating and promoting Public, Educational and Governmental Access (PEG Access) to cable television facilities and locally originated cable programming on behalf of its individual and organizational members.

Introduction and Summary

NFLCP's concern in this matter is the degree to which certain current operating features of cable systems will be maintained in the event of telephone company entry into video distribution. Specifically, NFLCP seeks to ensure that PEG Access requirements, which enhance the free speech rights of all members of the cabled community, will be maintained with current or improved conditions with which to facilitate their use.(1) NFLCP is concerned that certain features of the Commission's proposal may imply a reduced likelihood that residents would continue to receive the benefits of free access to local communications facilities, as authorized by Congress in the Cable Communications Policy Act of 1984 ("Cable Act" or "Act") at Section 611. To this end, NFLCP urges the Commission to maintain local authority over cable communications even if provided by the telephone companies, as is under consideration here, so that Congress' efforts to promote diversity and localism by providing for third-party access to cable communications are advanced.

NFLCP's Filing continued on page 8 (with notation)

1] Many cable systems that have access channels also provide training, facilities and other ancillary features that increase opportunities for public use of the access channels. NFLCP's experience in the field suggests that the availability of channels in conjunction with a program of training, outreach and equipment most fully enables the goals of access as envisioned by Congress in the Act. The mere availability of channels, without the conditions to facilitate their use in the community, tends to thwart Congressional aims.

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What Might "Telco-TV" Mean?

Supporters of telco entry are quick to point out that telcos are in an excellent position to bring competition to the local video marketplace. Proponents argue that telcos are uniquely qualified and able to build competing video distribution networks that would give consumers a choice of video provider. The alternative scenario that some speculate is just around the corner, and which drives cable companies to fight tooth and nail, is that once telcos get into the business, they will be able to draw on their huge resources to out-gun the competition, or that they could simply start buying up installed cable systems or companies. The long range possibility that some observers forecast is that telco entry into cable would be the first step toward the "one-wire" household: whereas now the cable company brings us video along its coaxial cable and the telephone companies deliver voice and data, all our voice, video and data connections would flow over one wire, probably a fiber optic cable. Some see that one-wire prospect as an exciting future of unlimited channel capacity, High Definition TV, two-way video over a switched network (the old "videophone"), home banking, medical and alarm services, and a cornucopia of services we can barely imagine, efficiently and inexpensively delivered via the most advanced technology. Others see it as threatening monopolization of the information conduit - one huge company that controls the means by which all electronic information enters and leaves your home or office.

The telcos want in, seeing tremendous opportunities. The cable industry wants to protect its position, fearing the worst from a competitor with the size and strength of the telephone companies. Many of us are caught in between, left trying to evaluate competing charges of who's the worse monopolizer, what's best for the public, and where we belong in the fray so as to best protect our own needs and interests in a pitched battle that could change the way video is delivered to the American home.

Some History & the Current Rules:

Right now the rules say telcos are generally not allowed to provide cable service in the same area in which they provide telephone service. That was not always the case.

When cable systems first appeared in the late 1940's, cable operators rented space on utility poles, which were owned and controlled by the telephone company, in order to bring their cables to the home. At the earliest stages, telcos provided the space at reasonable cost and seemed uninterested in providing this new service themselves. (Their primary aim was to meet the pent up demand for phone service released after the end of the Second World War.)

As cable capacity increased and the aspirations of cable companies rose, so did the interest of the telephone companies. However, in 1956, AT&T agreed to the terms of a consent decree to settle an anti-trust action brought by the Justice Department. One of the conditions of the decree was that AT&T would not provide any service that was not defined as common carriage. This included cable TV. Nevertheless, Bell system phone companies could build systems and lease them to others, and non-Bell telcos were not affected by the decree.

Phone companies resorted to three main strategies to assert control. They could own or control subsidiaries that actually provided the cable service, taking advantage of their ownership of the poles and conduits to offer substantially lower rates than unaffiliated operators could. They sometimes constructed cable systems and required the prospective cable operator to use the phone company plant rather than give them access to the poles and conduits. (Sometimes these "deals" also specified what would be carried on the cable system.) Third, they could raise rates for the pole attachments necessary to string cable to people's homes. (Pole attachment rates rose over 150% from the late 50's through the late 60's without any similar rise in costs to the telco for providing the space. Rates were sometimes calculated on the basis of what it would cost an independent to build a new system from scratch.)

Eventually, this led to FCC action to curb the abuses. In 1970, the FCC enacted rules to keep telephone companies from providing cable service in the area in which they provide phone service. (In 1981 these rules were amended so that telcos could cable rural areas where no cable existed or was being constructed.) The Commission acted after finding that telephone companies were able to restrict access to the poles and conduits that cable companies needed to wire homes and thereby force potential competitors out of business or demand unreasonably high rents. In addition, telcos dwarfed the still undeveloped cable industry. (At that time, cable was still in its infancy, operating primarily 12 channel systems designed to enhance reception of broadcast signals. HBO and satellite distribution of non-broadcast material started the industry along its current path in the early 70's.)

The Cable Communications Policy Act of 1984 codified the Commission's cross-ownership policies as law. In drawing up the cross-ownership provisions of the Act, Congress made no further findings as to the necessity of such rules, but relied upon the Commission's earlier analysis when it enacted the policy.

In addition, the "Baby Bells" that were formed when AT&T was broken up have a further cross-ownership restriction. In 1982, AT&T agreed to another settlement with the Justice Department to end another anti- trust suit. The settlement, usually referred to as the MFJ or the consent decree, dictated the terms and conditions under which the Bell Operating Companies (BOCs) would be divested from AT&T and grouped into Regional Holding Companies (RHCs). In order to provide safeguards against the type of behavior that caused the suit to be filed, the terms of the settlement include specific rules for what business operations the newly formed companies and AT&T may enter. These "line of business" restrictions do not mention cable, but specifically refuse the RHCs and BOCs entry into information services, especially in the origination of content. This has been generally recognized to cover video programming such as is provided by cable companies.

What People are Saying?

In July, the FCC announced it was requesting public comment on its proposal to lift the cross-ownership ban.

By the deadline, December 16, over 125 organizations submitted Comments outlining their arguments for or against the ban. As you might expect, the phone companies and their trade group, the United States Telephone Association, argued that lifting the ban would provide many benefits to the consumer, including many more program services, incentives

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HOMETOWN USA VIDEO FESTIVAL

c/o The Buske Group
2450 Portola Way
Sacramento, CA 95818

Entry Deadline March 17

Single and Series Categories

- Performing Arts
- Ethnic expression
- Entertainment
- Sports
- Programming For Youth
- Programming By Youth
- Live
- Municipal
- Religious
- Educational
- Instructional/Training
- Informational
- Innovative
- International
- Programming by Senior Citizens
- Programming for Senior Citizens
- Best Access Program Promotion
- Best Local Origination Program Promotion
- Public Service Announcements

Single Categories Only

- Documentary Event
- Documentary Profile
- Documentary Public Awareness
- Music Video
- Original Teleplay
- Video Art
- About Public Access

Series Categories Only

- Local News
- Magazine Format

Special Awards

Overall Excellence in:

- Public Access Programming
- Local Origination Programming
- Institutional Programming

NFLCP's Hometown USA has grown since it's inception in 1977. Last year there were nearly 1700 entries from 363 citys and 40 states. This year it's your turn.

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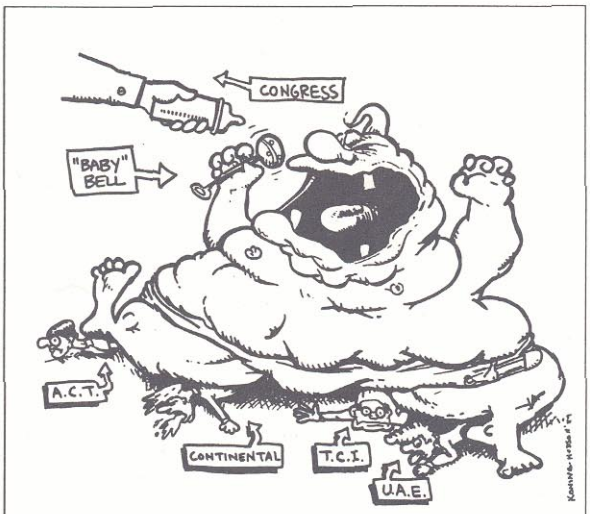
to phone companies to install fiber optic cable into the home, and competition for cable at the local level.

Cable companies and their trade group, the NCTA, argued that telcos have a history of anticompetitive behavior and that lifting the ban would expose consumers to the specter of the total monopolization of information services into the home. Moreover, they argue that telcos have an unfair advantage: as monopoly providers of telephone service, they could draw on the steady stream of guaranteed revenue that flows from providing local phone service to subsidize their cable ventures. This practice, called "cross-subsidy," is illegal, but many observers have questioned whether the FCC or state regulators can provide effective oversight and guarantee that the telcos aren't drawing on this tremendous revenue stream.



"WAA! I'm Hungry Mama! and My Diaper Needs Changing

Broadcasters advised the Commission to hold off lifting the ban until more evidence was gathered and adequate safeguards were in place. Six of the major Hollywood studios argued that cable operators should face "full and fair competition" for program delivery, and suggested that telcos could provide that competition under the right circumstances.

The Consumer Federation of America (CFA) and the United Church of Christ's Office of Communication (OC/UCC) both argued that lifting the ban would not be in the public interest. In separate filings, both groups argued that telcos would have the means and incentive to act anti-competitively, that the Commission had not adequately justified its tentative position to lift the ban, and that the cross-subsidy safeguards the Commission proposed were inadequate. The OC/UCC filing argued that any benefits to be derived are currently available to telcos that provide a distribution network on a non-discriminatory, common carrier basis.

The NFLCP's position, developed by the Executive Committee with the Public Policy Chair in consultation with NFLCP legal advisor Joe Van Eaton, is that under any delivery scheme, access must be protected and promoted. The Comments should make clear that we are not recommending either lifting the ban or keeping the ban; we argue that, however the Commission decides the issue, the First Amendment rights of all speakers, and the needs of access, must be protected. This position was drawn from the Policy Platform, which in summarized form says:

"The NFLCP supports legislative and regulatory actions which provide PEG access to video distribution systems under any regulatory or legal structure...."

What's Next?

The Commission will next accept Reply Comments, where Commentors respond to the filings of other parties, and will then consider all the information it has collected before (probably) issuing a Report and Order. However, there is no time limit for how long the Commission may consider the issue, and its decision won't be the end of the matter. Since the Cable Act made these FCC policies law, lifting the ban would take an act of Congress amending the Act. Finally, modifying the Consent Decree so as to allow Bell companies to provide video would take a court order.

Needless to say, video from your local phone company is still a ways off, but a ball this big, once set in motion, will gather tremendous momentum. One thing everyone can agree on with certainty is that the telco-cable debate will be with us for the next few years, dominating much of the communications policy discussions in Washington and around the country. It will be up to us to lift a page from Austin's recent experience and remind every party involved: Don't mess with Access!

A full transcript of the NFLCP's filing with the FCC starts on page 3 with additional comments on pages 10 &11.

-FCC Filing

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I. Congress and the Commission Have Recognized the Importance of Access

The Commission led the way in the development of PEG Access when it recognized the opportunity that cable offered to promote local community expression and diverse programming. In it's 1972 Cable Television Report and Order, the Commission's finding was unambiguous:

"[It is] appropriate that the fundamental goals of a national communications structure be furthered by cable — the opening of new outlets for local expression, the promotion of diversity in television programming, the advancement of educational and instructional television and increased informational services of local governments. Accordingly, cable television systems will have to provide one dedicated noncommercial public access channel available without charge at all times on a first come, first served nondiscriminatory basis....

We believe there is increasing need for channels for community expression, and the steps we are taking are designed to serve that need." (2)

The access rules spurred the development of local television such that there is now substantial PEG Access in the U.S. Over 1500 access centers are producing 10,000 hours of original programming each week. The impetus provided by the Commission has yielded tremendous community service and significantly furthered the Commission's overarching policy goals. Ultimately, in the Cable Act, Congress implicitly endorsed access to cable. Since passage of the Act, access has continued to grow and can be expected to contribute further to national communications policy aims if institutional support continues.(3)

NFLCP's concern here is the manner by which video distribution is regulated so as to advance public interest goals of free speech and preserve the First Amendment rights of all speakers. While there will be numerous arguments submitted in this docket for and against carrier entry into cable television, NFLCP does not herewith purport to favor or disfavor lifting the cross-ownership ban. NFLCP's interest rests with ensuring that, if entry is permitted, the public's right of access to media is maintained in order to advance recognized and long-standing policy goals.

II. Access Can Be Promoted if Local Oversight is Maintained

The Commission seeks comment at para. 72 as to whether a carrier providing cable service would qualify under Section 602(4) of the Cable Act as a cable operator and thus be required by Section 621(b)(1) of the Act to hold a franchise to provide cable service. NFLCP supports the Commission's conclusion that carriers that elect to provide video distribution services would qualify as cable operators under Section 602(4), and herewith urges the Commission to explicitly confer upon local franchising authorities the rights to oversee telephone company provision of cable service to the same degree exercised over other cable operators. Such oversight and franchising authority vested in local government would enable local authorities to require access channels and facilities to the same extent provided for in the Cable Act at Section 611.

The Commission raises the possibility that, under a configuration whereby the carrier provides channel service, the carrier would not be covered as a cable operator under the Act and thus in need of a

2] Cable Television Report and Order, Released February 3, 1972, 36 FCC 2d, at paras. 121, 122.

3] The Commission's findings that led to the access rules have never been abandoned or reconsidered. In Midwest Video v. FCC, 571 F.2d 1025 (8th Cir. 1978), affirmed on other grounds, 440 U.S. 689 (1979), the Court struck down the access rules as exceeding Commission authority, which at that time only extended to cable regulation as it was "reasonably ancillary" to the regulation of broadcast television. Since then, however, Congress has clarified the Commission's authority to regulate cable communications by amending the Communications Act of 1934 at Section 152(a) such that "The provisions of this Act shall apply to cable service...as provided in title VI." (The Cable Act at Section 3.) Local governments now have explicit authority to enforce access channel, facility and service requirements.

franchise to operate (See Notice at para. 74). This proposition is inconsistent with Congressional intent as reflected at Section 602[4], wherein a cable operator is defined as one who "is responsible for, through any arrangement, the management and operation of such a cable system."(4) NFLCP argues that a carrier, even if providing channel service to program suppliers, remains "responsible" for the management and operation of cable in the community. The carrier would presumably continue to bear final responsibility for maintaining the physical plant, system design, pricing decisions to programmers, ensuring compliance with applicable technical standards, etc. As such, a carrier providing channel service is still responsible for the system as an entity, even if not for the programming carried thereon.

As such, whether a carrier provides cable service in the manner of a traditional cable operator or by offering channel service, the carrier remains subject to local franchising authority. In turn, the Cable Act authorizes franchising authorities to require access channels and ancillary facilities,(5) most of which are made available to users free of charge. Hence, whether or not the telephone company is the programmer, local governments have and should continue to have the authority to impose access requirements.

4] Cable Act, Section 602(4)(B), emphasis added.

5] Cable Act at Section 611(b).

III. Common Carriage Needs Local Authority To Ensure Access

Commission Notice at para. 74 seeks comment on **"what franchise responsibilities arise under the Cable Act where video programming is delivered to subscribers by means of common carrier tariffed transmission services."** NFLCP contends that, even under a common carrier arrangement, PEG Access facilities are necessary to ensure full First Amendment rights for all community members and diversity of expression.

As noted above, Congress has unambiguously recognized the importance of access.(6) In passing the Cable Act, the Congress has specifically recognized the substantial importance of public access and the government's interest in providing for it: "There can be no doubt that the purposes of access regulations serve a most significant and compelling government interest—promotion of the basic underlying values of the First Amendment itself,"(7) including, inter alia, ensuring the "widest possible diversity of information sources and services to the public."(8) Congress saw PEG Access not simply as a means of guaranteeing access for the well-to-do (who could afford to purchase access(9)), but also those who traditionally had been denied full access to the electronic media. Hence, Congress specifically cited public access as "the video equivalent of the speaker's soap box . . .[which] provide[s] groups and individuals who generally have not had access to the electronic media with the opportunity to become sources of information in the electronic marketplace of ideas."(10)

NFLCP contends that under a

conclusion on page 10

6] The legislative history contains a lengthy discussion of the First Amendment interests served by access in light of long-standing Supreme Court precedent, which has interpreted the First Amendment as consonant with these aims. As Congress correctly noted, the Court, in Associated Press v. United States, 326 U.S. 1, 20 (1945), recognized that "The First Amendment . . . rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public." Subsequently, the Court held that "the right of the public to receive suitable access to social, political, esthetic, moral and other ideas and experiences" is of paramount importance in regulating broadcasting. (See, Red Lion Co. v. FCC, 395 U.S. 367, 390 (1969).) Guaranteeing the public's right to access becomes even more important where, as here, a foreseeable consequence of allowing telephone companies to enter the cable business is monopoly control over all communications by wire in a community.

7] H.R. Rep. No. 934, 98th Cong., 2d Sess. 34 (1984), reprinted in,1984 U.S. Code Cong. & Admin. News at 4671 (hereinafter "House Report").

8] 47 U.S.C. Section 521(4).

9] See, for example, the Cable Act at Section 612, which requires cable operators to set aside a certain number of channels for the use of "unaffiliated programmers."

10] House Report at 30, reprinted in, 1984 U.S. Cong. Code & Admin. News at 4667.

-Conclusion:

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common carrier arrangement, Congressional intent would not be respected unless the Commission authorizes continued local control such that free PEG Access to cable facilities would be made available to local citizens. Indeed, there is no reason to suppose that, absent a requirement imposed by the franchising authority, a common carrier would establish a channel access charge that would be consistent with low-cost or no-cost access; the incentive for the carrier would likely run contrary to these provisions.(11) There would likewise be little reason to suppose that a telephone company would provide the facilities and services which are essential to the development of local programming and the sustained viability of PEG Access unless the local authority insists upon it. Telephone company entry into cable television will have an adverse effect on the public's interest in access unless that entry is regulated such that access can be maintained in local communities.

IV. Conclusion

NFLCP is dedicated to the safeguarding of open access to communication networks. PEG Access as it currently exists has been developed with cable operators under current regulatory schemes, and NFLCP has found many cable operators to be willing partners in facilitating access for the communities they serve. It is NFLCP's intent herein to urge that such public orientation be manifest under any delivery scheme, and we urge the Commission to proceed accordingly. Congress has recognized the importance of third party access to cable systems, and Congressional intent in this area should be recognized and protected by Commission action in this proceeding. Therefore, NFLCP urges the Commission that if it adopts rules that enable carriers to provide cable service, it do so in a fashion consonant with Congressional intent to promote diversity of expression and the widest availability of free speech rights in the provision of video through wire transmission. The principle of access should be paramount, whatever the medium or whoever the operator may be, so that the public may enjoy the full exercise of its First Amendment rights.

Respectfully Submitted,
NATIONAL FEDERATION OF LOCAL CABLE PROGRAMMERS

By: Sharon B. Ingraham
Chair, Board of Directors
December 16, 1988

P.O. Box 27290
Washington, DC 20038-7290
(202) 829-7186

11] Experience with cable systems in Austin, Kansas City Sacramento, Erie and elsewhere demonstrates that system operators will try to reduce or eliminate access requirements if the opportunity arises. The operator's incentive is to retake control of channels where possible such that the channels can be used for the private gain of the operator.

CTR Coordinator: *NFLCP Board Requests Proposals*

The National Federation of Local Cable Programmers [NFLCP] is seeking a coordinator for it's main periodical The Community Television Review [CTR].

Distributed to members and supporters of the NFLCP this bi-monthly journal provides current organizational news, public policy updates, information and education about the field of community television and other material of interest.

CTR is published 6 times per year, with a typical press run of 2500 copies. Submissions utilize an E-mail system and desktop publishing, preference will be given to contractors having access to these technologies.

The current NFLCP budget has alocated $1450.00 per issue with additional money for a coordinator's fee. The CTR Coordinator position will be contracted thru an RFP process.

Those wishing to submit proposals should contact Dirk W. Koning, Chair, CTR Editorial Board, 50 Library Plaza NE, Grand Rapids, MI, 49503 and request a copy of the CTR coordinator RFP.

Other Voices in The Telco Fray

By Jack Schommer - CTR Managing Editor, NFLCP ISC Chair

The intent of any legal comment is never completely clear to it's lay reader but drops deeper into the haze when one loses sight of the speaker.

Participants in this recent joust are too numerous for the short forum CTR offers within these limitations it's necessary to provide background on the issue and reprint the NFLCP's comments in an attempt to bring the general membership up to speed.

It's interesting to look, even superficially, at some other sides to this debate. Considering the NFLCP's stance at some what center of the issue it seems prudent to review comments from the other sides.

NCTA's (National Cable Television Associations) and NLC's (National League of Cities) submissions offer strongly worded views from opposite sides of the issue.

Relations between NFLCP and NCTA have warmed recently and while it's premature to spout predictions NFLCP chair-person, Sharon Ingram announced a joint project between the two in developing a Cable System Managers Handbook. NCTA's comments to the FCC echoed NFLCP's in that not enough was said about the future of local programming when and if telcos were to enter the cable arena.

The NCTA's 60 page 'Reply Comments' doesn't stop there, it states quite strong opposition to teleco entry into cable. To start, it points out a number of parties which *"overwhelmingly disagree"* with the commission on a lack of adverse effects. NCTA states, quite bluntly,

"At bottom, ... neither the Commission nor the phone companies have identified any likely tangible benefits of allowing..." provision of service.

NCTA comments also raise their now common red flag concerns over the evenness of the playing field, attaching monetary values.

[the rule change] *"would, on the other hand, allow investments and relationships that would invite predatory conduct and threaten to destroy competition throughout the video marketplace"* .

The Cable Association's comments state it will be the consummer losing from,

"...anticompetitive conduce of the telephone companies if the current ban is lifted.",

and the ratepayer as bearing subsidization of the telephone company's programming ventures *"to the tune of at least a quarter-trillion dollars"* .

To the other side of NFLCP is the National League of Cities, who's comments embrace the entry of new competition and: *"A complete overhaul of the existing regulatory framework ... to facilitate telephone company entry."*

If you hadn't surmised, the framework they want torn down is the Cable Act, the AT&T divestiture decree and the Communications Act of 1934. This proposed overhaul pulls up short of total dismantling,

"to ensure local control, cable franchising authorities should retain the authority to grant franchises and regulate local matters. At a minimum, (1) Consumer protection (2)Franchise fees, (3) public, educational and government access and (4) minimum requirements for facilities and equipment."

From the League's point of view there is this problem which they refer to as a 'cable bottleneck'.

"the current problems — high subscriber rates, customer dissatisfaction, and the lack of technological innovation - will only worsen as cable's penetration rate climbs and its control of the flow of information increases."

As could be predicted NLC also speaks to the framework's restrictions as opposed to the needs of local franchising authorities.

"The restrictions of the Cable Act and the uncertainties arising from ongoing First Amendment litigation are the primary sources of these limitations on municipal authority."

However one issue jumps out of the NLC legal tomb, this ardent belief the cable industry is unable or unwilling to embrace new technologies.

"The configuration of the regulatory environment — which now establishes insurmountable barriers to ... high-capacity integrated systems and favors ... a bifurcated system [one wire for telephone and one for video] *will play a central role in determining whether and when this information infrastructure will be made available to Americans."*

At this point diversity of opinion is healthy. At some point the fence sitters may find their opinions cast aside. If there is a lesson to gleen from this expatiate, it is we must get involved in the process or let others decide our fate.

-Membership has it's reward-

A Membership in the *NFLCP* hooks you into a network of access users. Reward yourself and a friend with membership in the NFLCP.

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